

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

EZEKIEL DAVIS,)	
)	
Plaintiff,)	
vs.)	NO. CIV-12-0330-HE
)	
CARL BEAR, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Plaintiff, a state prisoner appearing *pro se* and *in forma pauperis*, filed this § 1983 action against various state employees. He seeks damages for constitutional violations he claimed occurred while he was incarcerated at the Oklahoma State Reformatory.¹ Consistent with 28 U.S.C. §636(b)(1)(B), the matter was referred to Magistrate Judge Gary M. Purcell, who recommends that plaintiff's motion requesting a temporary restraining order or preliminary injunction be denied.

In his motion/brief, plaintiff asks for an immediate transfer to a medium security prison and that asserted false misconducts be expunged from his record. The magistrate judge concluded plaintiff had failed to demonstrate likelihood of success on the merits or irreparable injury either with respect to the claims alleged in the complaint or his new request for a transfer.

Plaintiff objected to the Report and Recommendation, principally arguing that he can demonstrate a likelihood of success. However, even if he can, he has not shown the required


¹After plaintiff filed this lawsuit he was transferred to the Davis Correctional Facility.

irreparable harm. The damage he complains of – that the misconducts will “remain a part of Plaintiff’s record where they will cause an adverse affect on Plaintiff’s parole eligibility” – can be remedied at the conclusion of the case, if plaintiff prevails.²

Accordingly, the court adopts Magistrate Judge Purcell’s Report and Recommendation and **DENIES** plaintiff’s request for a temporary restraining order/preliminary injunctive relief [Doc. #48].

IT IS SO ORDERED.

Dated this 30th day of November, 2012.



JOE HEATON
UNITED STATES DISTRICT JUDGE

²*Plaintiff also asserts that, in the absence of injunctive relief, he will have to remain at a maximum security facility, but does not identify how that could cause irreparable harm.*